

ESTTA Tracking number: **ESTTA381151**

Filing date: **11/30/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	3M Company		
Entity	Corporation	Citizenship	Delaware
Address	3M Center, 2501 Hudson Road St. Paul, MN 55144 UNITED STATES		

Attorney information	Scott W. Johnston Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-0910 UNITED STATES sjohnston@merchantgould.com, slindemeier@merchantgould.com Phone:612-332-5300
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### Applicant Information

Application No	85056393	Publication date	11/09/2010
Opposition Filing Date	11/30/2010	Opposition Period Ends	12/09/2010
Applicant	Utech Products, Inc. 135 Broadway Schenectady, NY 12305 UNITED STATES		

### Goods/Services Affected by Opposition

Class 001. First Use: 2010/06/07 First Use In Commerce: 2010/06/07  
All goods and services in the class are opposed, namely: Anti-slip chemical preparations that are applied to horizontal surfaces to prevent slip and fall accidents

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	542361	Application Date	10/07/1949
Registration Date	05/15/1951	Foreign Priority Date	NONE
Word Mark	SAFETY-WALK		

Design Mark	<b>SAFETY-WALK</b>
Description of Mark	NONE
Goods/Services	Class U012 (International Class 019). First use: First Use: 1943/05/00 First Use In Commerce: 1943/05/00 SHEET MATERIAL, IN THE NATURE OF PAPER AND CLOTH, COATED ON A SURFACE THEREOF WITH GRANULAR MATERIAL TO PROVIDE A WEAR-RESISTANT NON-SKID COVERING FOR TRAFFIC-BEARING SURFACES SUCH AS FLOORS, TREADS, STEPS, RAMPS, ROADWAYS, DECKS, DOCKS, GANGWAYS, SPRINGBOARDS, AND THE LIKE

U.S. Registration No.	932096	Application Date	04/21/1971
Registration Date	04/11/1972	Foreign Priority Date	NONE
Word Mark	SAFETY-WALK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U012 (International Class 019). First use: First Use: 1943/05/00 First Use In Commerce: 1943/05/00 NON-SLIP SURFACING MATERIAL IN SHEET OR STRIP FORM		

U.S. Registration No.	2739553	Application Date	03/27/2001
Registration Date	07/22/2003	Foreign Priority Date	NONE
Word Mark	SAFETY-WALK		
Design Mark	<b>SAFETY-WALK</b>		
Description of Mark	NONE		
Goods/Services	Class 027. First use: First Use: 1995/00/00 First Use In Commerce: 1995/00/00 Floor mats		

Attachments	71585949#TMSN.gif ( 1 page )( bytes ) 76236564#TMSN.gif ( 1 page )( bytes ) 2010 11 30 Notice of Opposition 85056393.PDF ( 19 pages )(581777 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/SWJ/
Name	Scott W. Johnston
Date	11/30/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3M Company,	)	Opposition No. _____
	)	
Opposer,	)	Mark: <b>SAFE WALK</b>
	)	
v.	)	Serial No.: 85/056,393
	)	
Utech Products, Inc.,	)	Filing Date: June 7, 2010
	)	
Applicant.	)	Published: November 9, 2010

**NOTICE OF OPPOSITION**

3M Company (hereinafter “Opposer”), a Delaware corporation located at 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144, believes that it will be damaged by the registration of the mark SAFE WALK shown in trademark application Serial No. 85/056,393, filed June 7, 2010, by Utech Products, Inc. (hereinafter “Applicant”), and hereby opposes the same. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark SAFE WALK for “anti-slip chemical preparations that are applied to horizontal surfaces to prevent slip and fall accidents,” in International Class 1.
2. Applicant’s mark published for opposition on November 9, 2010. This Notice of Opposition is timely filed.
3. Since at least as early as 1943, Opposer has been using the trademark SAFETY-WALK on a variety of anti-slip products. In addition, Opposer uses its SAFETY-WALK mark on chemical preparations used in connection with Opposer’s anti-slip products.

4. Opposer owns the following registrations for its SAFETY-WALK mark:

Mark	Reg. No./ Reg. Date	Filing Date	Use Date	Goods
<b>SAFETY-WALK</b>	542,361 May 15, 1951	Oct. 7, 1949	May 1943	Sheet material, in the nature of paper and cloth, coated on a surface thereof with granular material to provide a wear-resistant non-skid covering for traffic-bearing surfaces such as floors, treads, steps, ramps, roadways, decks, docks, gangways, springboards, and the like.
SAFETY-WALK	932,096 April 11, 1972	April 21, 1971	May 1943	Non-slip surfacing material in sheet or strip form.
SAFETY-WALK	2,739,553 July 22, 2003	March 27, 2001	1995	Floor mats.

Current printouts of information from the electronic database records of the USPTO showing the current status and title of the registrations are attached hereto as Exhibit A.

5. The registrations listed in the above table have not been canceled, are valid, and are now in full force and effect.

6. The registrations listed in the above table are incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065. Consequently, these registrations are conclusive evidence of the validity of the registered mark and of the registration of the mark, of Opposer's ownership of the mark, and of Opposer's exclusive right to use the registered mark in commerce under Section 33 of the Lanham Act, 15 U.S.C. § 1115.

7. Opposer has advertised and promoted its SAFETY-WALK mark extensively. Opposer has also made substantial sales of products under said mark. As a result of such use and

promotion, Opposer's SAFETY-WALK mark has developed and represents valuable goodwill inuring to the benefit of Opposer.

8. There is no issue of priority concerning application Serial No. 85/056,393 since Opposer used and registered its SAFETY-WALK mark prior to Applicant's June 7, 2010, filing date. Opposer's Registration No. 542,361 registered May 15, 1951, more than fifty-nine (59) years before Applicant's filing date of its application. In addition, Opposer's use of the SAFETY-WALK mark commenced sixty-seven (67) years before Applicant's filing date. Opposer therefore has priority over Applicant with respect to the marks at issue.

9. Upon information and belief, Applicant had not used Applicant's mark in commerce prior to Applicant's June 7, 2010, filing date.

10. Upon information and belief, Applicant had knowledge of the fact that Opposer used the term SAFETY-WALK as a trademark before it adopted the SAFE WALK mark.

11. Applicant's SAFE WALK mark is confusingly similar to Opposer's SAFETY-WALK mark as the two marks are nearly identical in sight, sound and commercial impression.

12. Applicant's alleged goods are closely related to the goods marketed and sold by Opposer in connection with its SAFETY-WALK mark, for which Opposer owns registrations. For example, both parties' goods include anti-slip products. In addition, Applicant also uses the mark SAFETY WALK in connection with the sale of anti-slip treads that are identical to Opposer's non-slip treads. This fact increases the likelihood of confusion.

13. Upon information and belief, Opposer's and Applicant's products are sold in the same channels of trade to the same consumers or class of consumers.

14. Due to the similarity between the parties' marks, the closely related nature of the goods of the respective parties, customers and potential customers are likely to believe that

Applicant's goods originate from Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.

15. The use and registration by Applicant of the mark SAFE WALK for Applicant's goods is likely to cause confusion or to cause mistake or deception in the trade, and among purchasers and potential purchasers, with Opposer's previously used SAFETY-WALK mark, again resulting in damage to Opposer.

16. Because of the closely related nature of the goods, and that the marks are confusingly similar, use and registration of the term SAFE WALK by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored, or approved by Opposer for use with Opposer's products causing further damage to Opposer.

17. Registration of the mark shown in application Serial No. 85/056,393 will result in damage to Opposer under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that registration of the term SAFE WALK for the goods set forth therein be refused.

Please direct all correspondence to:

Scott W. Johnston  
MERCHANT & GOULD P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910

Opposer herein appoints John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Andrew S. Ehard; Scott W. Johnston, Reg. No. 39,721; Danielle I. Mattessich; Scott M. Oslick;

Christopher J. Schulte; William D. Schultz, and all other attorneys of the firm of Merchant & Gould P.C., its attorneys to transact all business in the U.S. Patent and Trademark Office relating to this matter with full power of substitution.

Respectfully submitted,

3M COMPANY

By its Attorneys,

Date: 11-30-10

A handwritten signature in black ink, appearing to read 'S. Johnston', written over a horizontal line.

Scott W. Johnston  
MERCHANT & GOULD P.C.  
80 South Eighth Street, Suite 3200  
Minneapolis, Minnesota 55402-2215  
(612) 332-5300



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon Applicant by First Class Mail, postage pre-paid, this 30th day of November, 2010 as follows:

Utech Products, Inc.  
135 Broadway  
Schenectady, NY 12305

  
\_\_\_\_\_  
Scott W. Johnston

**EXHIBIT A**

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2010-11-30 15:15:04 ET

Serial Number: 71585949 Assignment Information Trademark Document Retrieval

Registration Number: 542361

Mark

**SAFETY-WALK**

(words only): SAFETY-WALK

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2001-05-20

Filing Date: 1949-10-07

Transformed into a National Application: No

Registration Date: 1951-05-15

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-10-15

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. MINNESOTA MINING AND MANUFACTURING COMPANY

Address:

MINNESOTA MINING AND MANUFACTURING COMPANY  
3M CENTER 2501 HUDSON ROAD  
ST. PAUL, MN 55144  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Delaware

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**GOODS AND/OR SERVICES**

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**U.S. Class:** 012 (International Class 019)

**Class Status:** Active

SHEET MATERIAL, IN THE NATURE OF PAPER AND CLOTH, COATED ON A SURFACE THEREOF WITH GRANULAR MATERIAL TO PROVIDE A WEAR-RESISTANT NON-SKID COVERING FOR TRAFFIC-BEARING SURFACES SUCH AS FLOORS, TREADS, STEPS, RAMPS, ROADWAYS, DECKS, DOCKS, GANGWAYS, SPRINGBOARDS, AND THE LIKE

**Basis:** 1(a)

**First Use Date:** 1943-05-00

**First Use in Commerce Date:** 1943-05-00

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**ADDITIONAL INFORMATION**

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**Section 2(f)**

**Prior Registration Number(s):**

518537

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-10-15 - Case File In TIGRS

2001-05-20 - Third renewal 10 year

2001-05-20 - Section 8 (10-year) accepted/ Section 9 granted

2001-02-02 - Combined Section 8 (10-year)/Section 9 filed

1991-02-12 - Second renewal 10 year

1991-01-11 - Section 9 filed/check record for Section 8

1971-05-15 - First renewal

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

ROBERT W. HOKE II  
MINNESOTA MINING AND MANUFACTURING CO.  
3M CENTER  
2501 HUDSON ROAD  
ST. PAUL, MN 55144

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## Trademark Assignment Abstract of Title

## Total Assignments: 1

Serial #: 71585949

Filing Dt: 10/07/1949

Reg #: 542361

Reg. Dt: 05/15/1951

Registrant: MINNESOTA MINING AND MANUFACTURING COMPA

Mark: SAFETY-WALK

## Assignment: 1

Reel/Frame: 2502/0547

Received: 05/09/2002

Recorded: 04/30/2002

Pages: 40

Conveyance: MERGER AND CHANGE OF NAME

Assignor: MINNESOTA MINING AND MANUFACTURING COMPANY

Exec Dt: 04/08/2002

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: 3M COMPANY

3M CENTER

2501 HUDSON ROAD

ST. PAUL, MINNESOTA 55144

Correspondent: JAMES F. VOEGELI

3M CENTER, BLDG. 220-11W-01

P.O. BOX 33427

ST. PAUL, MINNESOTA 55133-3427

Search Results as of: 11/30/2010 03:14 PM

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Web interface last modified: Apr 30, 2009 v.2.1[| .HOME](#) | [INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [CONTACT US](#) | [PRIVACY STATEMENT](#)

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**This page was generated by the TARR system on 2010-11-30 15:14:10 ET**

**Serial Number:** 72389765 Assignment Information Trademark Document Retrieval

**Registration Number:** 932096

**Mark (words only):** SAFETY-WALK

**Standard Character claim:** No

**Current Status:** This registration has been renewed.

**Date of Status:** 2001-09-12

**Filing Date:** 1971-04-21

**Transformed into a National Application:** No

**Registration Date:** 1972-04-11

**Register:** Principal

**Law Office Assigned:** (NOT AVAILABLE)

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 40S -Scanning On Demand

**Date In Location:** 2008-09-12

---

#### LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. MINNESOTA MINING AND MANUFACTURING COMPANY

**Address:**

MINNESOTA MINING AND MANUFACTURING COMPANY  
3M CENTER 2501 HUDSON ROAD  
ST. PAUL, MN 55144  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

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#### GOODS AND/OR SERVICES

---

**U.S. Class:** 012 (International Class 019)

**Class Status:** Active

NON-SLIP SURFACING MATERIAL IN SHEET OR STRIP FORM

**Basis:** 1(a)

**First Use Date:** 1943-05-00

**First Use in Commerce Date:** 1943-05-00

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#### ADDITIONAL INFORMATION

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**Prior Registration Number(s):**

542361

837740

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-09-12 - Case File In TICSRS

2001-09-12 - Second renewal 10 year

2001-09-12 - Section 8 (10-year) accepted/ Section 9 granted

2001-06-15 - Combined Section 8 (10-year)/Section 9 filed

1992-03-05 - First renewal 10 year

1992-02-10 - Section 9 filed/check record for Section 8

1977-08-09 - Section 8 (6-year) accepted & Section 15 acknowledged

---

#### ATTORNEY/CORRESPONDENT INFORMATION

---

**Attorney of Record**

ROBERT W HOKE II

**Correspondent**

ROBERT W HOKE II

MINNESOTA MINING & MANUFACTURING CO

3M CENTER

2501 HUDSON RD



ST PAUL MN 55144

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## Trademark Assignment Abstract of Title

**Total Assignments: 1**Serial #: 72389765

Filing Dt: 04/21/1971

Reg #: 932096

Reg. Dt: 04/11/1972

Registrant: MINNESOTA MINING AND MANUFACTURING COMPA

Mark: SAFETY-WALK

**Assignment: 1**Reel/Frame: 2502/0547

Received: 05/09/2002

Recorded: 04/30/2002

Pages: 40

Conveyance: MERGER AND CHANGE OF NAME

Assignor: MINNESOTA MINING AND MANUFACTURING COMPANY

Exec Dt: 04/08/2002

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: 3M COMPANY

3M CENTER

2501 HUDSON ROAD

ST. PAUL, MINNESOTA 55144

Correspondent: JAMES F. VOEGELI

3M CENTER, BLDG. 220-11W-01

P.O. BOX 33427

ST. PAUL, MINNESOTA 55133-3427

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Web interface last modified: Apr 30, 2009 v.2.1

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**Thank you for your request. Here are the latest results from the TARR web server.**

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**Serial Number:** 76236564 Assignment Information      Trademark Document Retrieval

**Registration Number:** 2739553

**Mark (words only):** SAFETY-WALK

**Standard Character claim:** No

**Current Status:** Section 8 and 15 affidavits have been accepted and acknowledged.

**Date of Status:** 2009-09-15

**Filing Date:** 2001-03-27

**Transformed into a National Application:** No

**Registration Date:** 2003-07-22

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 113

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** M40 -TMO Law Office 113

**Date In Location:** 2009-09-15

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. 3M COMPANY

**Address:**

3M COMPANY  
2501 HUDSON ROAD 3M CENTER  
ST. PAUL, MN 55144  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Delaware

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**GOODS AND/OR SERVICES**

---

**International Class:** 027

**Class Status:** Active

Floor mats

**Basis:** 1(a)

**First Use Date:** 1995-00-00

**First Use in Commerce Date:** 1995-00-00

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### ADDITIONAL INFORMATION

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#### Section 2(f)

**Prior Registration Number(s):**

542361

932096

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-09-28 - Review Of Correspondence Complete

2009-09-15 - Section 8 (6-year) accepted & Section 15 acknowledged

2009-09-15 - Case Assigned To Post Registration Paralegal

2009-07-22 - TEAS Section 8 & 15 Received

2008-03-24 - Case File In TICRS

2003-07-22 - Registered - Principal Register

2003-04-29 - Published for opposition

2003-04-09 - Notice of publication

2003-03-04 - Approved for Pub - Principal Register (Initial exam)

2002-02-08 - Letter of suspension mailed

2001-12-10 - Communication received from applicant

2001-07-18 - Non-final action mailed

2001-07-03 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

James F. Voegeli

**Correspondent**

James F. Voegeli

3M Innovative Properties Company

3M CENTER, 2501 HUDSON ROAD

SAINT PAUL MN 55144

Phone Number: 651-736-6989

Fax Number: 651-736-3783

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Filing Dt: 03/27/2001

Reg #: 2739553

Reg. Dt: 07/22/2003

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Mark: SAFETY-WALK

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